

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Nicholas J. Cremona  
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE LYLE BERMAN FAMILY PARTNERSHIP;  
NEIL I SELL, in his capacity as Trustee for the  
Julie Berman Irrevocable Trust U/TA 8/9/89, the  
Bradley Berman Irrevocable Trust U/TA 8/9/89,  
the Jessie Lynn Berman Irrevocable Trust U/TA

Adv. Pro. No. 10-05071 (SMB)

8/9/89 and the Amy Berman Irrevocable Trust U/TA 8/9/89; STANLEY TAUBE, in his capacity as Trustee for the Julie Berman Irrevocable Trust U/TA 8/9/89, the Bradley Berman Irrevocable Trust U/TA 8/9/89, the Jessie Lynn Berman Irrevocable Trust U/TA 8/9/89, and the Amy Berman Irrevocable Trust U/TA 8/9/89; JULIE BERMAN IRREVOCABLE TRUST U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; BRADLEY BERMAN IRREVOCABLE TRUST U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; JESSIE LYNN BERMAN IRREVOCABLE TRUST U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; AMY BERMAN IRREVOCABLE TRUST U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; JULIE BERMAN; BRADLEY BERMAN; JESSIE LYNN BERMAN; and AMY BERMAN,

Defendants.

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL  
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through their counsel, Baker & Hostetler LLP, and (i) The Lyle Berman Family Partnership; (ii) Neil I. Sell, in his capacity as Trustee for the Julie Berman Irrevocable Trust U/TA 8/9/89, the Bradley Berman Irrevocable Trust U/TA 8/9/89, the Jessie Lynn Berman Irrevocable Trust U/TA 8/9/89 and the Amy Berman Irrevocable Trust U/TA 8/9/89; (iii) Julie Berman Irrevocable Trust U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; (iv) Bradley Berman Irrevocable Trust U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; (v) Jessie Lynn Berman

Irrevocable Trust U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership; (vi) Amy Berman Irrevocable Trust U/TA 8/9/89, in its capacity as a Partner of The Lyle Berman Family Partnership ((i) through (iv) collectively referred to as “Settling Parties”); (vii) Stanley Taube, in his capacity as Trustee for the Julie Berman Irrevocable Trust U/TA 8/9/89, the Bradley Berman Irrevocable Trust U/TA 8/9/89, the Jessie Lynn Berman Irrevocable Trust U/TA 8/9/89, and the Amy Berman Irrevocable Trust U/TA 8/9/89; (viii) Julie Berman; (ix) Bradley Berman; (x) Jessie Lynn Berman; and (xi) Amy Berman, (collectively, the “Defendants”), by and through their counsel, Elise S. Frejka of Frejka PLLC (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, the Trustee filed and served the Complaint against Defendants.

2. On January 17, 2014, Defendants filed and served the Answer to the Complaint on the Trustee.

3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Settling Parties entered into a Settlement Agreement and Release on October 12, 2016.

4. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default under the terms of the Settlement Agreement. Upon the Trustee’s receipt of the full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default

under the Settlement Agreement, this dismissal shall be deemed with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

7. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

*[Remainder of this page intentionally left blank.]*

Dated: October 20, 2016  
New York, New York

**BAKER & HOSTETLER LLP**

By: /s/ Nicholas J. Cremona  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: [dsheehan@bakerlaw.com](mailto:dsheehan@bakerlaw.com)  
Nicholas J. Cremona  
Email: [ncremona@bakerlaw.com](mailto:ncremona@bakerlaw.com)

and

811 Main Street, Suite 1100  
Houston, Texas 77002  
Telephone: 713.646.1346  
Facsimile: 713.751.1717  
Dean D. Hunt  
Email: [dhunt@bakerlaw.com](mailto:dhunt@bakerlaw.com)

*Attorneys for Plaintiff Irving H. Picard,  
Trustee for the liquidation of Bernard L.  
Madoff Investment Securities LLC and the  
consolidated estate of Bernard L. Madoff*

**FREJKA PLLC**

By: /s/ Elise Frejka  
205 East 42<sup>nd</sup> Street, 20<sup>th</sup> Floor  
New York, New York 10017  
Telephone: 212.641.0800  
Facsimile: 212.641.0820  
Elise Frejka  
Email: [EFrejka@frejka.com](mailto:EFrejka@frejka.com)  
Jason Rappaport  
Email: [jrapaport@frejka.com](mailto:jrapaport@frejka.com)

*Attorneys for Defendants The Lyle Berman  
Family Partnership; Neil I. Sell, in his capacity  
as Trustee for the Julie Berman Irrevocable  
Trust U/TA 8/9/89, the Bradley Berman  
Irrevocable Trust U/TA 8/9/89, the Jessie Lynn  
Berman Irrevocable Trust U/TA 8/9/89 and the  
Amy Berman Irrevocable Trust U/TA 8/9/89;  
Stanley Taube, in his capacity as Trustee for  
the Julie Berman Irrevocable Trust U/TA  
8/9/89, the Bradley Berman Irrevocable Trust  
U/TA 8/9/89, the Jessie Lynn Berman  
Irrevocable Trust U/TA 8/9/89, and the Amy  
Berman Irrevocable Trust U/TA 8/9/89; Julie  
Berman Irrevocable Trust U/TA 8/9/89, in its  
capacity as a Partner of The Lyle Berman  
Family Partnership; Bradley Berman  
Irrevocable Trust U/TA 8/9/89, in its capacity  
as a Partner of The Lyle Berman Family  
Partnership; Jessie Lynn Berman Irrevocable  
Trust U/TA 8/9/89, in its capacity as a Partner  
of The Lyle Berman Family Partnership; Amy  
Berman Irrevocable Trust U/TA 8/9/89, in its  
capacity as a Partner of The Lyle Berman  
Family Partnership; Julie Berman; Bradley  
Berman; Jessie Lynn Berman; and Amy  
Berman*

SO ORDERED:

**Dated: October 20<sup>th</sup>, 2016**  
**New York, New York**

**/s/ STUART M. BERNSTEIN**  
**Hon. Stuart M. Bernstein**  
**United States Bankruptcy Judge**